

William C. Rand, Esq.
 LAW OFFICE OF WILLIAM COUDERT RAND
 711 Third Ave., Suite 1505
 New York, New York 10017
 (Phone) (212) 286-1425; (Fax)(212) 599-7909
 Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----	X	
EUGENE LUMLEY,	:	ECF
Individually and on Behalf of All Other Persons	:	08 CV 3993 (TPG) (AJP)
Similarly Situated,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	
UNITED STATES TRUST COMPANY, N.A.,	:	
BANK OF AMERICA, N.A. and	:	
JOHN DOES #1-10, Jointly and Severally,	:	
	:	
Defendants.	:	
-----	X	

NOTICE OF MOTION FOR APPROVAL OF COLLECTIVE ACTION NOTICE

PLEASE TAKE NOTICE that upon the accompanying (a) memorandum of law, (b) the declaration of Plaintiffs' counsel, William C. Rand, Esq., and the exhibits attached thereto, (c) the declaration of Plaintiff Eugene Lumley, and (d) all pleadings filed herein, a motion for the Court's approval of Plaintiffs' Collective Action Notice will be made by Plaintiffs at 9:30 a.m. on Monday June 30, 2008 before the Honorable Thomas P. Griesa, United States Courthouse, 500 Pearl St., Courtroom 26B, New York, NY 10007. The motion will specifically seek the entry of an Order (1) allowing the case to proceed as a collective action, (2) directing Defendants to disclose the names and last known addresses of current and former employees who are potential plaintiffs and putative

members of the collective action class, (3) authorizing service by mail upon potential plaintiffs of the proposed collective action notice attached as Exhibit A to the declaration of William C. Rand, Esq. and entitled NOTICE OF LAWSUIT AND OPPORTUNITY TO JOIN, and the proposed Consent to Become Party Plaintiff attached thereto as Exhibit B. A proposed order is submitted herewith.

Dated: New York, New York
June 13, 2008

LAW OFFICE OF WILLIAM COUDERT RAND

s/William C. Rand

William Coudert Rand, Esq.
Attorney for Plaintiff, Individually,
and on Behalf of All Other Persons Similarly Situated
711 Third Avenue, Suite 1505
New York, New York 10017
Tel: (212) 286-1425

Co-counsel
Berger & Gottlieb
Jeffrey M. Gottlieb, Esq. (JG-7905)
150 East 18th Street, Suite PHR
New York, New York 10003
Tel: (212) 228-9795

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
EUGENE LUMLEY,	:
Individually and on Behalf of All Other Persons	:
Similarly Situated,	:
	:
	:
Plaintiffs,	:
	:
	:
-against-	:
	:
UNITED STATES TRUST COMPANY, N.A.,	:
BANK OF AMERICA, N.A. and	:
JOHN DOES #1-10, Jointly and Severally,	:
	:
Defendants.	:
-----X	

**[PROPOSED] ORDER ON PLAINTIFFS' MOTION
TO APPROVE COLLECTIVE ACTION NOTICE**

THIS MATTER came on before the Court on Plaintiffs' Motion for Approval of Collective Action Notice and related relief, and the Court, having reviewed the said motion, the responses and replies thereto, if any, and the case file herein, and now being sufficiently advised in the premises,

HEREBY ORDERS that Plaintiffs' Motion is GRANTED, and FURTHER ORDERS that

1. The collective action notice entitled "NOTICE OF LAWSUIT AND OPPORTUNITY TO JOIN" and attached hereto as Exhibit A is hereby approved for mailing to potential plaintiffs;

2. The collective class of potential plaintiffs in this matter shall consist of all current and former employees of Defendants who worked as First Level Officers or similar positions with different titles ("First Level Officers") who worked for Defendants in any location in excess of forty (40) hours per week without being paid overtime compensation therefor equal to one and one-half times the regular rate at which they were employed at any time during the six year period immediately preceding the date of this Order; and

3. Defendants shall provide to Plaintiffs the names and last-known addresses of all potential plaintiffs (i.e. all First Level Officers or similar employees employed within the six year period prior to April 29, 2008, the date of the complaint) no later than five (5) business days after the date of this Order. This information shall be supplied in

paper form, and also digitally in one of the following formats: Microsoft Excel; Microsoft Word; or Corel WordPerfect; and

4. Plaintiffs shall mail the notice of collective action to all potential plaintiffs no later than twenty (20) days following the defendant's disclosure of their names and last-known addresses; and

5. If any notice to any potential plaintiff is returned as undeliverable, Plaintiffs' counsel is permitted to mail the notice to such potential plaintiff again at any other address he may determine is appropriate; and

6. All potential plaintiffs must opt-in no later than sixty-five (65) days following the date of mailing of the collective action notice, by returning the executed form entitled "Consent to Become Party Plaintiff" to Plaintiffs' counsel no later than sixty (60) days from the date of mailing. Plaintiffs' counsel shall thereupon promptly file such executed consents with the Court and serve copies thereof on other counsel of record.

DATED this day of , 2008

U.S.D.J.